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JAN 25 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matters of)
Application of)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a CAPITOL PAGING)
For a Private Carrier Paging)
Facility on 152.480 MHz in)
Huntington/Charleston, WV)
Imposition of Forfeiture re)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a CAPITOL PAGING)
Former Licensee of Station)
WNSX646 in the PLMRS)
Revocation of Licenses of)
CAPITOL RADIO TELEPHONE, INC.)
d/b/a CAPITOL PAGING)
Licensee of Stations WNDA400)
and WNWW636 in the PLMRS)
Revocation of Licenses of)
CAPITOL RADIOTELEPHONE COMPA-)
NY, INC. d/b/a CAPITOL PAGING)
Licensee of Stations KWU373,)
KUS223, KQD614 and KWU204 in)
the PMRS)

PR Docket No. 93-231

To: Administrative Law Judge Joseph Chachkin

OBJECTIONS TO PRODUCTION OF
CERTAIN PERSONS FOR CROSS-EXAMINATION

CAPITOL RADIOTELEPHONE COMPANY, INC. (a/k/a Capitol Radiotelephone, Inc. or Capitol Radio Telephone, Inc.) d/b/a CAPITOL PAGING ("Capitol"), by its attorneys, hereby objects to the request of the Private Radio Bureau that certain

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persons, as hereinafter set forth, be produced by Capitol at the hearing for cross-examination. A copy of the Bureau's request is attached for convenient reference.

The Bureau requests, inter alia, that Capitol produce "Dan Stone," "Bob Wilson" and "Calvin R. Basham" for cross-examination. However, none of those persons was listed as a sponsoring witness for any exhibit proposed by Capitol as part of its direct case,¹ nor was any of those persons otherwise identified by Capitol as a witness on its behalf. Moreover, the Bureau did not even list any of these persons on the witness list for its own direct case.

Under these circumstances, the only proper basis upon which the Bureau can call any of these persons as witnesses is for rebuttal purposes; and the Bureau has made no demonstration whatever that they are intended to testify in rebuttal to anything.²

Similarly, while it may be premature to register this objection at this time, Capitol also objects to the Bureau's suggestion in its notification that Capitol may have an obligation to produce 13 enumerated persons beginning with

¹ The Bureau's notification erroneously states that Mr. Basham is a sponsoring witness for Exhibit CAP-12. In fact, however, the sponsoring witness for that exhibit is J. Michael Raymond, who the Bureau is also requesting (without objection by Capitol) be produced for cross-examination.

² Undersigned counsel additionally is informed that producing Mr. Wilson would be impossible in any event, because he is afflicted with a serious illness and is currently hospitalized or confined to his home for medical care.

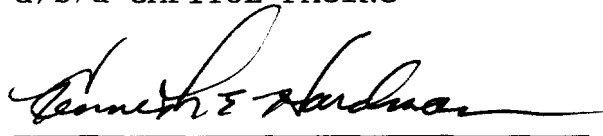
Sgt. Wendell Adkins and ending with William Tooley, in the event certain of Capitol's proposed exhibits are admitted into evidence. None of these people has been identified as a witness by Capitol; and Capitol therefore has no obligation to produce them for cross-examination by the Bureau.

WHEREFORE, Capitol Paging requests that the Presiding Judge sustain Capitol's objections to the production of the foregoing persons at the hearing in the captioned matter.

Respectfully submitted,

CAPITOL RADIOTELEPHONE COMPANY,
INC. d/b/a CAPITOL PAGING

By:



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One of Its Attorneys

January 25, 1994

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

January 25, 1994

In Reply Refer to:
7320-01

BY FAX

Kenneth E. Hardman, Esq.
1255 23rd St., N.W.
Suite 830
Washington, D.C. 20037-1170

Re: In re Capitol Radiotelephone, Inc., et al.,
PR Docket No. 93-231

Dear Mr. Hardman:

Please be advised that the Private Radio Bureau (PRB) requests that the following persons be produced for cross-examination at the hearing in the above-referenced proceeding, scheduled to begin on February 1, 1994.

J. Michael Raymond - Mr. Raymond is or was Vice President and Chief Operating Officer of Capitol Radiotelephone Company, Inc. d/b/a Capitol Paging (Capitol). He is the sponsoring witness of Capitol's proposed Exhibits CAP- 01, 11, and 12. Additionally, he responded to Commission correspondence regarding the issues in this proceeding by letter dated June 17, 1992, and he executed a declaration which addressed those issues on September 29, 1992. He was present during the inspection of Capitol by Commission engineers in August 1991.

Russell Harrison - Mr. Harrison is or was the manager of Capitol's common carrier and private paging systems in Huntington, West Virginia. He is the sponsoring witness of Capitol's proposed Exhibit CAP-22, which consists of a statement dated January 18, 1994, in addition to a September 29, 1992, declaration addressing the issues in this proceeding. He was present during the inspection of Capitol by Commission engineers in August 1991.

Don Stone - Information available to the Commission indicates that Mr. Stone is or was President and/or owner of Capitol. Mr. Stone was present during the inspection of Capitol by Commission engineers in August 1991.

Bob Wilson - Information available to the Commission indicates that Mr. Wilson is or was Capitol's office manager. He was present during the inspection of Capitol by Commission engineers in August 1991.

Kenneth B. Hardman, Esq.

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Calvin R. Basham - Mr. Basham is a sponsoring witness of Capitol's proposed Exhibit CAP-12. Additionally, he loaned Capitol the base station transmitters Capitol used for its Private Carrier Paging (PCP) station WNSX-646 at which the alleged violations at issue in this proceeding occurred.

Billy C. McCallister - Mr. McCallister is the sponsoring witness of Capitol's proposed Exhibit CAP-21.

Arthur K. Peters, P.E. - Mr. Peters is the sponsoring witness of Capitol's proposed Exhibit CAP-23.

Capitol's proposed Exhibits CAP- 02 - 10 and 18 relate to various pleadings filed by RAM Technologies, Inc. (RAM) and correspondence by or concerning RAM filed with the National Association of Business and Educational Radio (NABER). These exhibits are of questionable relevance to the issues in this proceeding, which concern alleged operating violations by Capitol. If these exhibits are nonetheless offered and received into evidence, the Bureau hereby notifies you of its need to cross-examine those persons who made declarations or were named in declarations supporting the various pleadings. These include: Sgt. Wendell Adkins, Carolyn B. Frye, Andrea Jane Dean, Douglas Thomas, Lloyd Graham, Jo Ann Davis, Bill Bangs, Debbie Paugh, Jim McClure, Jack Donahue, Mary Reams-Bailey, Terry Spears, and William Tooley.

We note that Capitol's direct case proposes oral testimony of Carol Fox Foelak concerning a meeting on April 4, 1991, between FCC employees and representatives of RAM Technologies, Inc., and concerning a July 19, 1991, memo signed by Ms. Foelak. We intend to resist producing Ms. Foelak as a witness. She has no personal knowledge of any facts related to the issues in this case. Additionally, PRB has no knowledge of an April 4 meeting. Finally, as we indicated in our letter accompanying our proposed exhibits, we intend to question several present or former employees of RAM, whom RAM has agreed to produce.

Sincerely,



Carol Fox Foelak
Y. Paulette Laden
Attorneys, Private Radio Bureau

cc: Administrative Law Judge Joseph Chachkin
Frederick M. Joyce, Esq.
T.D. Kauffelt, Esq.

CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of January, 1994, served the foregoing Objections to Production of Certain Persons for Cross-Examination upon the Federal Communications Commission by delivering a true copy thereof to Administrative Law Judge Joseph Chachkin, 2000 L Street, N.W., Room 226, Washington, D.C. 20554, to Carol Fox Foelak, Esquire, Private Radio Bureau, 2025 M Street, N.W., Room 5202, Washington, D.C. 20554, and to Y. Paulette Laden, Esquire, Mass Media Bureau, 2025 M Street, N.W., Room 7212, Washington, D.C. 20554, and upon RAM Technologies, Inc. by delivering a true copy thereof to its attorney, Frederick M. Joyce, Esquire, Joyce & Jacobs, 2300 M Street, N.W., Suite 130, Washington, D.C. 20037.


Kenneth E. Hardman